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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Appl. No. : 09/987,210
Applicants : Reinhard DEUTSCH et al.
Title : METHOD OF AND APPARATUS
FOR MANIPULATING COUPONS
AND THE LIKE IN CIGARETTE
PACKING MACHINES
Filed : November 13, 2001
Art Unit : 3721
Examiner : Thanh K. Truong
Docket No. : 41653-188423
Customer No. : 26694
Date : November 3, 2003

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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TECHNOLOGY CENTER R3700

Petition from Requirement for Restriction

Pursuant to 37 C.F.R. §1.144, Applicants petition from the Examiner's Requirement for Restriction.

In an Office Action mailed May 28, 2003, the Examiner restricted the present application to two inventions.

In the Response filed June 30, 2003, Applicants requested reconsideration of the restriction requirement pursuant to 37 C.F.R. §1.143. Applicants also added claim 21 as a "linking" claim to link the two otherwise allegedly divisible inventions.

In an Office Action mailed August 1, 2003, the Examiner made the requirement for restriction final and failed to acknowledge that claim 21 as a linking claim.

Applicants respectfully petition the Commissioner to review the requirement for restriction. Specifically, Applicants request that claim 21 be considered as a linking claim for the two inventions identified in the Action mailed May 28, 2003.

Order as request for
reconsideration
Stephen Marcus
Special Program Examiner
Group 3700

Independent claims 1, 11 and 21, as presently written, are listed in the Appendix attached hereto.

In the Office Action mailed May 28, 2003, the Examiner states that restriction is required between Invention I, claims 1-10, drawn to a method of manipulating blanks in a machine for packing smoker's products, classified in class 53, subclass 415, and Invention II, claims 11-20, drawn to an apparatus for manipulating blanks in a machine for packing smoker's products, classified in claim 53, subclass 135.1. The Examiner argued that the process as claimed can be practiced by another materially different apparatus such as the one that does not have a means for temporarily maintaining each collar at the assembling station in a predetermined position.

In the Response dated June 30, 2003, Applicants traversed the requirement on the grounds that no undo burden would be placed on the Examiner by examining all pending claims. Applicants maintain this position and respectfully request that the Commission review the requirement.

Also in the Response dated June 20, 2003, Applicants added claim 21 which is an apparatus claim to "means" for practicing the method to link the method and apparatus claim. It is noted that claim 21 does not include the "means for temporarily maintaining" feature of claim 11. Claim 21 only includes essentially verbatim "means" for practicing claim 1. In the Office Action mailed August 1, 2003, the Examiner stated that claim 21 is "distinct from the elected invention because it can be shown that the process as claimed can be practiced by another materially different apparatus such as the one that the conveying means does not include at least one wheel and at least one suction head on the at least one wheel." It is respectfully noted that claim 21 does not require a conveying means with at least one wheel and at least one suction head. Claim 21 recites "means for conveying successive blanks from the magazine, along a predetermined path, and on to the assembling station so that each blank reaches said station while a collar is at a standstill thereat, including positively guiding each blank along each portion of said path." As such, the Examiner's reasoning for stating that claim 21 is drawn to the nonelected invention is not correct.

As stated in the MPEP at §809.03: "The most common types of linking claims which, if allowed, act to prevent restriction between inventions that can otherwise be shown to be divisible,

Appl. No. 09/987,210
Petition from Requirement for Restriction

are...(C) a claim to "means" for practicing a process linking proper apparatus and process claims..."

Claim 21 is such a "means" claim.

Accordingly, it is respectfully submitted that claim 21 reads on the elected invention and is a linking with respect to Inventions I and II.

Should any fee be required, please charge said fee to Deposit Account 22-0261.

Respectfully submitted,

Date: _____

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APPENDIX

Claim 1. A method of manipulating blanks in a machine for packing smokers' products wherein the blanks are stored in a magazine and are associated with collars at an assembling station prior to confinement in outer envelopes jointly with packs of smokers' products, comprising the steps of:

transporting successive collars of a series of collars from a source to the assembling station; and

conveying successive blanks from the magazine, along a predetermined path, and on to the assembling station so that each blank reaches said station while a collar is at a standstill thereat, including positively guiding each blank along each portion of said path.

Claim 11. Apparatus for manipulating blanks in a machine for packing smokers' products wherein the blanks are stored in a magazine and are associated with collars at an assembling station prior to confinement in an outer envelope jointly with packs of smokers' products, comprising:

means for transporting successive collars of a series of collars from a source of collars to the assembling station;

means for temporarily maintaining each collar at said station in a predetermined position;

means for conveying a succession of blanks from the magazine, along a predetermined path, and on to said station so that each blank reaches said station while a collar is at a standstill thereat in said predetermined position thereof; and

guide means for positively guiding each blank at least along a portion of said path.

Claim 21. An apparatus for manipulating blanks in a machine for packing smokers' products wherein the blanks are stored in a magazine and are associated with collars at an assembling station prior to confinement in outer envelopes jointly with packs of smokers' products, comprising:

Appl. No. 09/987,210
Petition from Requirement for Restriction

means for transporting successive collars of a series of collars from a source to the assembling station; and

means for conveying successive blanks from the magazine, along a predetermined path, and on to the assembling station so that each blank reaches said station while a collar is at a standstill thereat, including positively guiding each blank along each portion of said path.

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